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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.260 OF 2006

ALLAHABAD THIS THE 13th DAY OF April, 2007

HON'BLE MR. S.K. DHAL, MEMBER-J

Krishna Chandra Saxena, S/o late Brij Bhushan Jauhari, R/o 258-B Ishwari Bhawan, Subhash Nagar, Bareilly.

.Applicant

By Advocate: Shri Atul Kumar

Versus

1. Union of India through G.M., N.E.R., Gorakhpur.
2. D.R.M., (P), N.E.R., Izzatnagar, Bareilly.
3. Principal, Zonal Training Institute, Muzaffarpur.

.Respondents

By Advocate : Shri Anil Kumar

ORDER

The applicant has approached this Tribunal challenging the order-dated 16.11.2005 passed by the respondents refusing to ^{have} ~~pay~~ his training period ~~for~~ consideration for qualifying service.

2. The applicant entered into the service on 10.11.64 as a Commercial Clerk (Goods). Thereafter, he was under training from the date of his joining till 15.2.1965. He retired on 30.9.1997 from the post of Guard in the pay scale of Rs. 1400-2600/-. By the time, he retired; his basic pay was Rs. 2360/. The applicant made a representation to

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Pension Adalat through D.R.M. (Commercial) for including the training period for the purpose of qualifying service. In spite of representation from time to time, his request was turned down under the order dated 16.11.2005, hence the present O.A. has been filed.

3. It has been pleaded by the respondents that the applicant joined in service on 2.3.1965. It is further pleaded in the year 1998 fire accident took place in the office building of D.R.M. Izzatnagar, as a result of which most of the service records of the employees including the applicant have been brunt. So, there is no record available to accept the request of the applicant. The ground of delay in filing the O.A. has also been taken by the respondents to dismiss the O.A.

4. The only point has come up for consideration whether the training period can be taken into consideration for qualifying service.

5. No documents have been filed on behalf of the respondents except a correspondence dated 16.11.2005 made with the applicant. On the other hand, the applicant has filed some documents like copy of joining report, posting order etc. in support of his case.

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6. It is not disputed that the training period cannot be taken into consideration for qualifying service. The probation period or the training period can be taken into consideration of a Government employee for qualifying service. In this case, the applicant joined in the post first then had undergone training. He has claimed to have joined on 10.11.64, whereas the respondents have taken the stand that the applicant joined on 2.3.1965. No records or documents have been produced on behalf of the respondents to support the stand of the respondents that the date of joining of the applicant is dated 2.3.1965. On the other hand, the documents filed on behalf of the applicant supports his case. The letter No. E/V/227/16/6/1 dated 17.2.1965 placed at page 15 of the O.A. reveals that the applicant was posted as SPJ being found fit by Medical Board on 10.11.1964 which corroborates the case of the applicant that he joined in service on 10.11.1964. This fact has not been rebutted by the respondents. Thereafter, he joined in the training which had commenced prior to his joining. So I am inclined to accept the submission made on behalf of the applicant that his date of joining is 10.11.1964, but not 2.3.1965 as stated by the respondents. So in that case, his service period will be counted from the date of his joining till the date of retirement, which includes the training period. It is immaterial whether the training period was for 45 days or 97 days.

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(11)

7. As regards the delay as pleaded by the respondents, the right of a Government servant cannot be refused on the flimsy ground of delay. The applicant has stated that he made representation from time to time, but no action was taken on it and when his representation was rejected, he filed the O.A. So, in that case, the relief(s) claimed by him cannot be refused on the ground of delay.

8. As per the above findings, the applicant is entitled to the relief as claimed for.

9. Hence, the O.A. is allowed on contest. The respondents are directed to treat the period ~~of the~~ applicant from 10.11.1964 to 30.9.1997 as qualifying service ^{of the applicant} and his pension may be fixed treating the said period as qualifying service i.e. from 10.11.64 to 30.9.97. No costs.

[Signature]
13/4/2007
MEMBER-J

GIRISH/-